

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-2024-AIR-E TCEQ ID: RN100671445 CASE NO.: 35116**  
**RESPONDENT NAME: Longhorn Glass Manufacturing, L.P.**

Page 1 of 3

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Longhorn Glass Plant, 4202 Fidelity Street, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Glass manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 23, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b> TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Vince Kozul, General Manager, Longhorn Glass Manufacturing, L.P., 4202 Fidelity Street, Houston, TX 77029 Mr. Kirk E. Norris, Group Vice President, Longhorn Glass Manufacturing, L.P., 4202 Fidelity Street, Houston, TX 77029 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 17, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 4, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failure to timely submit a semi-annual deviation report and a permit compliance certification. Specifically, the Respondent submitted the permit compliance certification for the period December 7, 2005 through February 28, 2006 on October 16, 2007, while it was due on March 30, 2006; and submitted the semi-annual deviation report for the period March 1, 2006 through August 31, 2006 on March 28, 2007, while it was due on September 30, 2006 [Federal Operating Permit ("FOP") O-02641, General Terms and Conditions ("GTC"), 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B), and 122.146(2), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to maintain the monitored opacity of the glass furnace stack (Emissions Point Number [EPN] Furnace) at less than 18.7%. Specifically, the monitor registered exceedances during the period January 3, 2006 through October 12, 2007 [New Source Review Permit ("NSRP") No. 42623, Special Condition ("SC") 4 and FOP O-02641, Special Terms and Conditions ("STC") 7, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failure to comply with the maximum allowable emission rate for hydrochloric acid ("HCl"). Specifically, HCl emissions</p>	<p><b>Total Assessed:</b> \$46,860</p> <p><b>Total Deferred:</b> \$9,372  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$37,488</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a) On July 16, 2007, was issued an amendment to NSRP No. 42623 to increase the maximum allowable emission rate for HCl to 1.80 tons per year;</p> <p>b) By December 14, 2007, in order to ensure the timely submittal of annual compliance certifications and semi-annual deviation reports, established an action item in the Plant's Environmental Management System that will be checked monthly;</p> <p>c) By December 14, 2007, in order to ensure that deviations arising from excess opacity are reported in semi-annual deviation reports, modified the continuous opacity monitoring system to e-mail the Environmental Health and Safety manager in the event of an opacity exceedance and provided additional oversight over the reporting of those exceedances; and</p> <p>d) On March 25, 2008, replaced a circuit board in the opacity monitor.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order:</p> <p>i. Make improvements to the continuous opacity monitoring system and/or;</p> <p>ii. Make improvements to the operation of the stack; and</p> <p>iii. Submit corrected semi-annual deviation reports for December 7, 2005 to February 28, 2006, for March 1, 2006 to August 31, 2006, and for September 1, 2006 to February 28, 2007.</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed</p>

<p>from the furnace building ventilation (EPN FB) exceeded the permit allowable by 1.14 tons per year during 2005 and 2006 [NSRP No. 42623, SC 1 and FOP O-02641, STC 7, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4) Failure to report all deviations in semi-annual deviation reports. Specifically, the reports for December 7, 2005 to February 28, 2006, for March 1, 2006 to August 31, 2006, and for September 1, 2006 to February 28, 2007 did not include opacity and opacity reporting deviations [FOP O-02641, GTC, 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		<p>supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. and/or a.ii.</p>
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Additional ID No(s): HG0028R





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

<b>DATES</b>	<b>Assigned</b>	10-Dec-2007	<b>Screening</b>	17-Dec-2007	<b>EPA Due</b>	14-Oct-2008
	<b>PCW</b>	16-Jan-2008				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Longhorn Glass Manufacturing, L.P.		
<b>Reg. Ent. Ref. No.</b>	RN100671445		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	35116	<b>No. of Violations</b>	4
<b>Docket No.</b>	2007-2024-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Terry Murphy
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$33,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **42% Enhancement** **Subtotals 2, 3, & 7** **\$13,860**

**Notes** The penalty was enhanced by two 1660-style agreed orders and one NOV for dissimilar violations.

**Culpability** **No** **0% Enhancement** **Subtotal 4** **\$0**

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** **0% Reduction** **Subtotal 5** **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes** The Respondent does not meet the good faith criteria.

**Subtotal 6** **\$0**

Total EB Amounts	\$1,244
Approx. Cost of Compliance	\$8,900

**0% Enhancement\***  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$46,860**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$46,860**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$46,860**

**DEFERRAL** **20%** **Reduction** **Adjustment** **-\$9,372**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$37,488**

Screening Date 17-Dec-2007

Docket No. 2007-2024-AIR-E

PCW

Respondent Longhorn Glass Manufacturing, L.P.

Policy Revision 2 (September 2002)

Case ID No. 35116

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100671445

Media [Statute] Air

Enf. Coordinator Terry Murphy

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 42%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The penalty was enhanced by two 1660-style agreed orders and one NOV for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 42%

<b>Screening Date</b> 17-Dec-2007 <b>Respondent</b> Longhorn Glass Manufacturing, L.P. <b>Case ID No.</b> 35116 <b>Reg. Ent. Reference No.</b> RN100671445 <b>Media [Statute]</b> Air <b>Enf. Coordinator</b> Terry Murphy <b>Violation Number</b> <input type="text" value="1"/>	<b>Docket No.</b> 2007-2024-AIR-E <b>PCW</b> <small>Policy Revision 2 (September 2002)  PCW Revision November 6, 2007</small>																								
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	x																								
Matrix Notes	<div style="border: 1px solid black; padding: 10px; min-height: 40px;"> The Respondent failed to comply with 100% of the rule. </div>																								
<b>Adjustment</b> <input style="width: 100px;" type="text" value="\$7,500"/>																									
<input style="width: 100px;" type="text" value="\$2,500"/>																									
<b>Violation Events</b>																									
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<small>mark only one with an x</small>	<div style="text-align: right; margin-top: 10px;"> <b>Violation Base Penalty</b> <input style="width: 100px;" type="text" value="\$5,000"/> </div>																								
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<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input style="width: 100px;" type="text" value="\$7,100"/>																									

**Economic Benefit Worksheet****Respondent** Longhorn Glass Manufacturing, L.P.**Case ID No.** 35116**Reg. Ent. Reference No.** RN100671445**Media** Air**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$400	30-Mar-2006	14-Dec-2007	1.7	\$34	n/a	\$34
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated costs to timely submit the reports and improve oversight of the reporting system. The Date Required is the date the annual compliance certification was due, and the Final Date is the date by which the additional oversight was implemented:

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance****\$400****TOTAL****\$34**



**Screening Date** 17-Dec-2007**Docket No.** 2007-2024-AIR-E**PCW****Respondent** Longhorn Glass Manufacturing, L.P.

Policy Revision 2 (September 2002)

**Case ID No.** 35116

PCW Revision November 6, 2007

**Reg. Ent. Reference No.** RN100671445**Media [Statute]** Air**Enf. Coordinator** Terry Murphy**Violation Number** 2**Rule Cite(s)** New Source Review Permit (NSRP) No. 42623, Special Condition (SC) 4 and FOP O-02641, Special Terms and Conditions (STC) 7, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)**Violation Description**

Failed to maintain the monitored opacity of the glass furnace stack (Emissions Point Number [EPN] Furnace) at less than 18.7%. Specifically, the monitor registered exceedances during the period January 3, 2006 through October 12, 2007, as documented during an investigation conducted on October 17, 2007.

**Base Penalty** \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

**Percent** 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

**Percent** 0%**Matrix Notes**

Human health or the environment were exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violations.

**Adjustment** \$7,500

\$2,500

## Violation Events

**Number of Violation Events** 8647 **Number of violation days**

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$20,000

Eight quarterly events are recommended.

**Economic Benefit (EB) for this violation****Statutory Limit Test****Estimated EB Amount** \$722**Violation Final Penalty Total** \$28,400**This violation Final Assessed Penalty (adjusted for limits)** \$28,400

**Economic Benefit Worksheet****Respondent** Longhorn Glass Manufacturing, L.P.**Case ID No.** 35116**Reg. Ent. Reference No.** RN100671445**Media** Air**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$4,000	3-Jan-2006	1-Aug-2008	2.6	\$34	\$687	\$722
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated costs to adjust the process or opacity monitor. The Required Date is the first date of a recorded opacity exceedance, and the Final Date is the date the Respondent is expected to complete the adjustments.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$4,000

**TOTAL**

\$722

Screening Date 17-Dec-2007

Docket No. 2007-2024-AIR-E

PCW

Respondent Longhorn Glass Manufacturing, L.P.

Policy Revision 2 (September 2002)

Case ID No. 35116

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100671445

Media [Statute] Air

Enf. Coordinator Terry Murphy

Violation Number 3

Rule Cite(s)

NSRP No. 42623, SC 1 and FOP O-02641, STC 7, 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health &amp; Safety Code § 382.085(b)

Violation Description

Failed to comply with the maximum allowable emission rate for hydrochloric acid (HCl). Specifically, HCl emissions from the furnace building ventilation (EPN FB) exceeded the permit allowable by 1.14 tons per year during 2005 and 2006, as documented during an investigation conducted on October 17, 2007.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could be exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violations.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 2

729 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$5,000

Two annual events are recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$317

Violation Final Penalty Total \$7,100

This violation Final Assessed Penalty (adjusted for limits) \$7,100

**Economic Benefit Worksheet****Respondent** Longhorn Glass Manufacturing, L.P.**Case ID No.** 35116**Reg. Ent. Reference No.** RN100671445**Media** Air**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$2,500	1-Jan-2005	16-Jul-2007	2.5	\$317	n/a	\$317
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated costs to prepare and submit the permit amendment that allows the increase in emissions. The Date Required is the first day of the year for which an exceedance was reported, and the Final Date is the amendment's effective date.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$2,500

**TOTAL**

\$317

**Screening Date** 17-Dec-2007**Docket No.** 2007-2024-AIR-E**PCW****Respondent** Longhorn Glass Manufacturing, L.P.

Policy Revision 2 (September 2002)

**Case ID No.** 35116

PCW Revision November 6, 2007

**Reg. Ent. Reference No.** RN100671445**Media [Statute]** Air**Enf. Coordinator** Terry Murphy**Violation Number** 4**Rule Cite(s)** FOP O-02641, GTC, 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), and Tex. Health & Safety Code § 382.085(b)**Violation Description**

Failed to report all deviations in semi-annual deviation reports. Specifically, the reports for December 7, 2005 to February 28, 2006, for March 1, 2006 to August 31, 2006, and for September 1, 2006 to February 28, 2007 did not include opacity and opacity reporting deviations, as documented during an investigation conducted on October 17, 2007.

**Base Penalty** \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification		x	

**Percent** 10%**Matrix Notes**

Between 30 to 70% of the required information was not reported.

**Adjustment** \$9,000

\$1,000

## Violation Events

**Number of Violation Events** 3365 **Number of violation days**

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

**Violation Base Penalty** \$3,000

Three single events are recommended, one for each of three deficient semi-annual reports.

**Economic Benefit (EB) for this violation****Statutory Limit Test****Estimated EB Amount** \$171**Violation Final Penalty Total** \$4,260**This violation Final Assessed Penalty (adjusted for limits)** \$4,260

**Economic Benefit Worksheet****Respondent** Longhorn Glass Manufacturing, L.P.**Case ID No.** 35116**Reg. Ent. Reference No.** RN100671445**Media** Air**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$2,000	30-Mar-2006	14-Dec-2007	1.7	\$171	n/a	\$171
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated costs to modify the continuous opacity monitoring system and provide additional oversight over the reporting of deviations. The Date Required is the due date of the first deficient semi-annual deviation report, and the Final Date is the date by which the Respondent completed a system modification and provided for additional oversight.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance****\$2,000****TOTAL****\$171**

# Compliance History

Customer/Respondent/Owner-Operator: CN601291057 Longhorn Glass Manufacturing, L.P. Classification: AVERAGE Rating: 14.22

Regulated Entity: RN100671445 LONGHORN GLASS PLANT Classification: AVERAGE Site Rating: 14.22

ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE GENERATION EPA ID TXD079391678

INDUSTRIAL AND HAZARDOUS WASTE GENERATION SOLID WASTE REGISTRATION # 31040

AIR NEW SOURCE PERMITS PERMIT 42623

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0028R

AIR NEW SOURCE PERMITS AFS NUM 4820100060

STORMWATER PERMIT TXR050726

Location: 4202 FIDELITY ST, HOUSTON, TX, 77029 Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: December 17, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 17, 2002 to December 17, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Terry Murphy Phone: (512) 239-5025

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
  2. Has there been a (known) change in ownership of the site during the compliance period? Yes
  3. If Yes, who is the current owner? Longhorn Glass Manufacturing, L.P.
  4. If Yes, who was/were the prior owner(s)? Longhorn Glass Corporation
  5. When did the change(s) in ownership occur? Anchor Glass Container Corporation
- 11/1/2006
- 06/30/2005

## Components (Multimedia) for the Site :

### A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

- 1 Effective Date: 07/30/2004 Admin. Order 2002-1392-AIR-E
- Classification: Moderate
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
- 30 TAC Chapter 116, SubChapter B 116.115(c)
- 5C THC Chapter 382, SubChapter A 382.085(b)
- Rqmt Prov: SC1 PERMIT
- Description: As owner and operator of the Plant, Longhorn Glass is alleged to have failed to operate within the permitted limit of 53.7 pounds per hour (lbs./hr.) of sulfur dioxide from the glass furnace, emission point number (EPN) Furnace-1.

- 2 Effective Date: 12/20/2004 Admin. Order 2004-0091-AIR-E
- Classification: Major
- Citation: 30 TAC Chapter 122, SubChapter B 122.121
- 30 TAC Chapter 122, SubChapter B 122.130(b)(1)
- 5C THC Chapter 382, SubChapter A 382.054
- 5C THC Chapter 382, SubChapter A 382.085(b)
- Description: Failure to submit the abbreviated Title V application before operating the facility.

### B. Any criminal convictions of the state of Texas and the federal government. N/A

### C. Chronic excessive emissions events. N/A

### D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 09/17/2003 (248472)
- 2 10/20/2003 (33227)
- 3 12/05/2003 (249695)
- 4 02/12/2004 (260945)
- 5 05/12/2004 (268212)
- 6 01/07/2005 (338613)
- 7 10/04/2007 (564248)
- 8 12/04/2007 (599497)
- 9 12/04/2007 (595747)

### E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- 1 Date: 12/04/2007 (599497)

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: OP O-02641 S.T. and C. 3A(iv)(3)  
Description: Failure to record quarterly opacity readings of the furnace stack.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: OP O-02641 Special Terms and Conditions 6  
Description: Failure to record results of monthly degreaser inspections.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
LONGHORN GLASS  
MANUFACTURING, L.P.  
RN100671445**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-2024-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Longhorn Glass Manufacturing, L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a glass manufacturing plant at 4202 Fidelity Street in Houston, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 9, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Forty-Six Thousand Eight Hundred Sixty Dollars (\$46,860) is assessed by the Commission in settlement of the violations alleged in Section II



("Allegations"). The Respondent has paid Thirty-Seven Thousand Four Hundred Eighty-Eight Dollars (\$37,488) of the administrative penalty and Nine Thousand Three Hundred Seventy-Two Dollars (\$9,372) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. On July 16, 2007, was issued an amendment to New Source Review Permit ("NSRP") No. 42623 to increase the maximum allowable emission rate for hydrochloric acid ("HCl") to 1.80 tons per year;
  - b. By December 14, 2007, in order to ensure the timely submittal of annual compliance certifications and semi-annual deviation reports, established an action item in the Plant's Environmental Management System that will be checked monthly;
  - c. By December 14, 2007, in order to ensure that deviations arising from excess opacity are reported in semi-annual deviation reports, modified the continuous opacity monitoring system to e-mail the Environmental Health and Safety manager in the event of an opacity exceedance and provided additional oversight over the reporting of those exceedances; and
  - d. On March 25, 2008, replaced a circuit board in the opacity monitor.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:



1. Failed to timely submit a semi-annual deviation report and a permit compliance certification, in violation of Federal Operating Permit ("FOP") O-02641, General Terms and Conditions ("GTC"), 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B), and 122.146(2), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 17, 2007. Specifically, the Respondent submitted the permit compliance certification for the period December 7, 2005 through February 28, 2006 on October 16, 2007, while it was due on March 30, 2006; and submitted the semi-annual deviation report for the period March 1, 2006 through August 31, 2006 on March 28, 2007, while it was due on September 30, 2006.
2. Failed to maintain the monitored opacity of the glass furnace stack (Emissions Point Number ["EPN"] Furnace) at less than 18.7%, in violation of NSRP No. 42623, Special Condition ("SC") 4 and FOP O-02641, Special Terms and Conditions ("STC") 7, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 17, 2007. Specifically, the monitor registered exceedances during the period January 3, 2006 through October 12, 2007.
3. Failed to comply with the maximum allowable emission rate for HCl, in violation of NSRP No. 42623, SC 1 and FOP O-02641, STC 7, 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 17, 2007. Specifically, HCl emissions from the furnace building ventilation (EPN FB) exceeded the permit allowable by 1.14 tons per year during 2005 and 2006.
4. Failed to report all deviations in semi-annual deviation reports, in violation of FOP O-02641, GTC, 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 17, 2007. Specifically, the reports for December 7, 2005 to February 28, 2006, for March 1, 2006 to August 31, 2006, and for September 1, 2006 to February 28, 2007 did not include opacity and opacity reporting deviations.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Longhorn Glass Manufacturing, L.P., Docket No. 2007-2024-AIR-E" to:



Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, in order to ensure compliance with the opacity limits from the glass furnace stack:
  - i. Make improvements to the continuous opacity monitoring system and/or;
  - ii. Make improvements to the operation of the stack;
  - iii. Submit corrected semi-annual deviation reports for December 7, 2005 to February 28, 2006, for March 1, 2006 to August 31, 2006, and for September 1, 2006 to February 28, 2007; and
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and/or 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification, and the reports required by Ordering Provision No. 2.a.iii., shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:





Air Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Srdin  
\_\_\_\_\_  
For the Executive Director

6/18/08  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

S. E. Stori  
\_\_\_\_\_  
Signature

4/17/08  
\_\_\_\_\_  
Date

Kirk E. Morris  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Longhorn Glass Manufacturing, L.P.

Group V.P.  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

